

a system of transferring information from an implanted medical device to a remote center.

Applicant challenged the rejection as being improper for failing to identify any suggestion to combine the references. In the Advisory Action, the argument is made that the required suggestion to combine comes from the references themselves. The argument further advances a view that the prior art in fact expresses the "desirability" of transferring data from an IMD to a remote location for further review. The alleged support for the suggestion to combine and such "desirability" is said to come from Krichen at col. 11, lines 57-59 and lines 60-67. In Krichen, the only desire that is indicated is one for an information format which can easily be interpreted and manipulated to allow for interpretation of data received as a "data dump" from an implanted medical device. Thus, the desire and any "suggestion" provided by Kirchen is expressly restricted to a situation where an implantable medical device "dumps" its information to a programmer (col. 1, lines 46-53).

The device of Halperin does not involve a programmer that merely obtains a "data dump" from an implantable medical device. The uniqueness of the data generated in Halperin stands in contrast to a "data dump." This distinction is underscored by the very portion in Halperin cited by the Advisory Action as further supporting a suggestion to combine the references, i.e., col. 6, lines 22-28. There, what is identified is "a set of data" that is generated which "may be interpreted by another computerized machine downstream." The set of data is not obtained by an information "dump."

The reach of the teaching of Krichen in regard to what is termed in the Advisory Action as "a connection which facilitates transfer of info between programmer and computer" does not extend to information resident on a programmer that is not a "data dump" of implantable medical device information. The Advisory Action fails to grasp the limited focus of Krichen and generalizes what Krichen contemplates in terms of communicating data from an implantable medical device to a remote location. The overly broad generalization of Krichen results from an attempted hindsight reconstruction of the claimed invention and at best what amounts to a mere verbal correspondence of the prior art to claim 8.

Applicant again submits that pending claims 8-22 are patentable over the cited references, either singly or in combination. Furthermore, applicant requests that the rejection be withdrawn and a notice of allowance be issued.

Respectfully submitted,

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